HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.NO. 23617 OF 1997

Between:

M.A. Jabbar

… Petitioner

and

Hyderabad Metro Water Supply and
Sewerage Board and another

… Respondents

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.NO. 23617 OF 1997

ORAL ORDER:

Aggrieved by the award of the Labour Court-1, Hyderabad, in I.D.No.667 of 1993 dated 10.2.1997, the petitioner-workman has approached this court.

The fact that the petitioner was absent from duty from 1.7.1991 till he reported on 18.9.1992, is not disputed. Sri L. NandaKishore, learned counsel for the petitioner, would contend that the evidence, in the form of medical certificates issued by a private doctor, marked as exhibits before the labour court, ought to have been considered. According to the learned counsel, the findings of the labour court that the petitioner's plea that he was suffering from an ailment did not hold water, was totally false, fabricated and that he was not interested in his job, are perverse findings and are liable to be set aside. Learned counsel would contend that, for the petitioner's prolonged absence from duty, the respondent-Board ought to have conducted an enquiry and taken disciplinary action against him and that termination of the services of the petitioner, in violation of Section 25-F of the Industrial

Disputes Act, 1947, would necessitate his being reinstated in service with continuity of service and full back wages.

Smt M. Venkateswari, learned Standing Counsel for the respondents, would contend that since it is an admitted fact that the petitioner had been absent from duty for over an year, it must be deemed that he was no longer interested in his job and had voluntarily abstained from duty. Learned Standing Counsel would also point out to the suggestion made to WW-1 (the petitioner herein) in cross-examination that he had gone to Dubai. She also contends that Ex.W-4, medical certificate, would itself show that the petitioner claimed to have suffered from Arthritis and that it defies comprehension that an employee who merely suffers from Arthritis is in no position to attend duty for a period in excess of one year. Learned Standing counsel would also refer to the averments in the counter filed before the labour court that the respondent-Board had issued notice, had caused its publication in the newspaper and it was only thereafter that his services were terminated.

In proceedings before the Labour Court, unlike in writ proceedings under Article 226 of the Constitution of India, a counter affidavit filed by the respondents in the I.D., merely constitutes pleadings and not evidence. No documentary evidence was let in on behalf of the respondents in support of their plea that they had issued a notice or had caused its publication in the newspaper. While there is oral evidence in this regard, a perusal of the award would reveal that this evidence was not taken into consideration by the labour court. No

reasons have been assigned by the labour court in support of its conclusions that the plea of the workman that he was suffering from an ailment was totally false.

The labour court has dealt with the entire dispute in a casual manner without appreciating the evidence on record nor has it chosen to assign any reasons in support of its conclusions. It had not even considered the oral evidence adduced on behalf of the respondents. The award of the labour court must, therefore, be set aside.

While Smt. M. Venkateswari, learned Standing Counsel for the respondents, would seek permission of this court to enable the respondents to let in evidence by marking the notice and the paper publication as exhibits, Sri L. Nandakishore, learned counsel for the petitioner, would raise an objection to this course of action and would contend that the labour court must necessarily pass an award, only on the basis of the evidence which has already been adduced.

As the award is set aside, and the matter is remanded back to the labour court for its consideration afresh, I see no reason to disentitle the respondents herein from adducing evidence, both oral and documentary, before the labour court. As the dispute in I.D.No.667 of 1993 relates to the year 1993 and nearly a decade and half has elapsed since then, it would be appropriate if the labour court decides the matter, as expeditiously as possible, and passes an award in accordance with law, within a period of 4 months from the date of receipt of a copy of this order.

The writ petition is disposed of. No costs.

RAMESH RANGANATHAN, J

DATE: 6.3.2007

CVM